Supreme Court, U.S.
FILED
FEB 24 1984
ALEXANDER L. STEVAS
CLERK

No. 83-1242

IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

SUN MYUNG MOON AND TAKERU KAMIYAMA,
Petitioners,

v.

UNITED STATES OF AMERICA,
Respondent.

ON PETITION FOR CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR UNITED STATES SENATOR ORRIN G. HATCH, CHAIRMAN, SUBCOMMITTEE ON THE CONSTITUTION, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY, AS AMICUS CURIAE IN SUPPORT OF REVERSAL

UNITED STATES SENATOR ORRIN G. HATCH
Counsel of Record
Chairman,
Subcommittee on the Constitution, United States Senate Committee on the Judiciary
Russell Senate Office Building, 135
Washington, D.C. 20510
(202) 224-5251

PRESS OF BYRON S. ADAMS PRINTING, INC., WASHINGTON, D.C. (202) 347-8203

TABLE OF CONTENTS

	Page
INTEREST OF THE AMICUS	1
SUMMARY OF ARGUMENT	1
REASONS FOR GRANTING THE PETITION	3
I. Established Principles Of First Amendment Law Were Ignored When The Trial Court Gave The Jury Unrestricted Latitude In Deciding The Critical Issue Of Ownership.	3
II. The Opinion Below, If Followed, Establishes A Grave Danger Of Unconstitutional Governmental Intrusion Into The Affairs Of All Churches.	12
CONCLUSION	14

TABLE OF AUTHORITIES

CASES: Page

Davis v. *Beason*, 133 U.S. 333 (1890) 10

Gonzalez v. *Archbishop*, 280 U.S. 1 (1929) 6, 8

Holy Spirit Association for the Unification of World Christianity v. *Tax Commission*, 55 N.Y. 2d 512 (1982) 8, 9, 10, 11

Jones v. *Wolf*, 433 U.S. 595 (1979) 7, 8, 9, 10, 15

Kedroff v. *St. Nicholas*, 344 U.S. 94 (1952) 6

Presbyterian Church v. *Hull Church*, 393 U.S. 440 (1969) 5

Serbian Eastern Orthodox Diocese v. *Milivojevich*, 426 U.S. 696 (1976) 6, 7, 8

United States v. *Ballard*, 322 U.S. 488 (1961) .. 11, 12, 15

Watson v. *Jones*, 13 Wall. 679 (1872) 5, 6, 8, 9, 10, 15

CONSTITUTIONAL PROVISIONS:

U.S. Const., Amend. I ..... *passim*

OTHER:

Cobb, S., *The Rise of Religious Liberty in America*, 2 (1970) 12, 13

Senate Committee on the Judiciary Rpt. 98-347 6

Swancara, F., *Thomas Jefferson versus Religious Oppression*, 5 (1969) 1

Pursuant to Rule 36.1 of the Rules of the United States Supreme Court, this brief is filed with the written consent of the Petitioners and Respondent. Their original letters of consent have been filed with the clerk of this Court.

INTEREST OF THE AMICUS

United States Senator Orrin G. Hatch submits this brief as a member of the United States Senate and Chairman of the Subcommittee on the Constitution, Senate Committee on the Judiciary. The Subcommittee is vitally interested in all activities in which constitutional rights are defined and interpreted. Senator Hatch is particularly concerned about this case because it represents, in his view, a troubling and unwarranted exercise of judicial interference by the courts below with fundamental religious freedoms.

Contrary to the First Amendment and time-honored precedents of this Court, the majority opinion of the Second Circuit Court of Appeals unconstitutionally permits unfettered jury inquiry into the practices and procedures of a religious institution. It should, therefore, be reviewed and reversed by this Court.

This *amicus* brief is not submitted as an endorsement of Reverend Sun Myung Moon or of the Unification Church. It is submitted because the undersigned has a vital concern that all matters constitutional, especially those involving invaluable religious freedoms, are correctly entertained and treated in the United States Courts. As stated so eloquently by Thomas Jefferson: "It behooves every man who values liberty of conscience for himself to resist invasions of it in the case of others, or their cases may, by change of circumstances, become his own." Swancara, F., *Thomas Jefferson versus Religious Oppression*, 53 (*citing* letter) (1969).

SUMMARY OF ARGUMENT

Certiorari must be granted because the lower courts, in failing to follow guiding principles established in controlling

decisions of this Court, violated important constitutional religious rights.

From the outset of the government's case, the defense of both defendants, Reverend Moon and Mr. Kamiyama, was that the property in question belonged not to Reverend Moon but to the Unification Church. They consistently asserted that the property had been donated to the church and entrusted to Reverend Moon who was unquestionably the Unification Church's worldwide leader. Such a practice of placing church property in the name of the church's leader is no different from the practice followed in many other established religious denominations. The defendants' position was bolstered by undisputed evidence at trial that the Unification Church, through its members, unanimously and unquestionably agreed and claimed that the property belonged to the Church, not Reverend Moon.

The trial court was thus confronted with a dispute over property ownership in which one of the parties was a church. Accordingly, the Court was obligated to resolve the ownership question in accordance with specific principles of law enunciated by this Court to protect the religious freedoms guaranteed by the United States Constitution. These principles require the courts to scrupulously avoid any interference with the tenets or practices of the church involved in the ownership dispute and to resolve the dispute by giving full deference to the church's position on all matters religious and to thereafter apply purely neutral principles of law, if applicable.

The courts below failed to follow these binding legal guidelines and instead permitted the jury to use whatever method it desired in determining the critical issue of ownership. The Second Circuit's statement that such legal guidelines do not pertain to a federal criminal tax case is without precedent, contrary to controlling decisions of this Court and entirely lacking in merit. The required use of neutral principles of law and deference to the church's position in deciding property ownership questions will in no respect curtail the ability of

criminal courts to make full factual inquiries on the question of guilt or innocence of an accused. They will, however, prevent the unauthorized intrusion into constitutional freedoms as was permitted below.

The actions of the trial court, as affirmed by the Court of Appeals, represent a dangerous deviation from controlling decisions of this Court. If followed, the decision below significantly increases the possibility of further unconstitutional governmental intrusions into the affairs of all churches. Such cannot be condoned. In this case the church and its religious leader were unpopular. Perhaps because of that unpopularity, the government and courts below strained to uphold a conviction despite the clear trampling of constitutional rights. But the Constitution must be satisfied in all cases and if the religious rights of Reverend Moon and the other members of the Unification Church are permitted to be callously ignored as they were in the proceedings below, then the religious freedoms cherished by our founding fathers are lost for all churches, popular and unpopular alike. The decision, therefore, must be reviewed and reversed.

REASONS FOR GRANTING THE PETITION

I. Established Principles Of First Amendment Law Were Ignored When The Trial Court Gave The Jury Unrestricted Latitude In Deciding The Critical Issue Of Ownership.

The case below involved the criminal tax evasion trial of Reverend Sun Myung Moon, the undisputed leader and embodiment of a worldwide religious movement known as the Unification Church. Like many religious leaders before him, Reverend Moon is both loved by his followers and hated by his detractors. Not inconsequentially, his detractors at the time of his trial included the vast majority of the American public.[1]

---

[1] Jury selection was rendered most difficult because of Reverend Moon's widespread unpopularity. As the trial judge himself noted, it

Reverend Moon, a Korean native, came to the United States in the early 1970's primarily for the purpose of expanding his growing church. He took up residence in New York and during the next several years spread his religious views in America. Because Reverend Moon's views were unacceptable and distasteful to many Americans, he was frequently maligned by the media, publicly denounced and held in strong disfavor by the general populace. In 1976, after years of such treatment, the Internal Revenue Service began an investigation of the tax returns of Reverend Moon and the records of the Unification Church. The investigation culminated in 1981 in a criminal indictment charging Reverend Moon with wilfully concealing personal income derived from certain property (hereinafter "the property") for the years 1973, 1974 and 1975.

In defense, Reverend Moon contended the property was not his but rather the property of the Unification Church. The question of ownership of the property was thus introduced into the case. All parties and both courts below agree this was the central issue upon which the defendants' guilt or innocence depended. 718 F.2d at 1217.

Resolution of this primary issue depended in turn on answers to the key questions: 1) where did the property come from? and 2) for what purpose did Reverend Moon recieve the property? If the property came from Unification Church members as donations to their church, then the property was obviously the church's and not Reverend Moon's. If, on the other hand, the property came from Unification Church members or any other source to Reverend Moon as his own, then the property would be personal to Moon and subject to his personal taxation.[2]

---

became necessary to empanel jurors "who don't know much, because they are obviously the persons who start off with the least bias." T1759-60.

[2] An additional question—how was the property used?—was inserted by the government into the trial. Of course, this issue is relevant only to the extent it assists the fact finder in answering the key questions of where the property came from and why the property

With the issues so framed, the trial court was faced with a property dispute in which one of the contestants was an established religion.[3] The setting was therefore not, as the government and courts below suggest, simply the trial of a businessman for tax evasion. T6174, T6472, A1905, S125. Given the Unification Church's claim of ownership of the property, the case encompassed a larger field which included religious freedoms guaranteed to the church and its members by the United States Constitution, Amendment I: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . ."

There is an abundance of authority from this Court describing the minimum safeguards the trial court should have employed to assure adequate protection of Reverend Moon's and the Unification Church's religious rights. Without question the role of courts in resolving church property disputes is "severely circumscribed" by the First Amendment. *Presbyterian Church* v. *Hull Church*, 393 U.S. 440, 449 (1969). The general and undisputed principle is enunciated in *Watson* v. *Jones*, 13 Wall. 679, 728 (1872): "the law knows no heresy, and is committed to the support of no dogma, the establishment of no sect." The judiciary is constitutionally precluded by the First

---

was given to Reverend Moon. If the property was not used to advance the purposes of the Unification Church, then it could be inferred the property came to Moon as his own. Conversely, a use of the property to advance purposes of the Unification Church, through investments or otherwise, would carry the inference that the money was given to Moon as a contribution to the church. If, however, the evidence is clear that the donors of the property intended their donations to be to the church and not to Reverend Moon, as was the case in the trial of the present case, the issue regarding use of the property becomes irrelevant.

[3] The question whether the Unification Church is a "religion" was decided fully in favor of the church in *Holy Spirit Association for the Unification of World Christianity* v. *Tax Commission*, 55 N.Y. 2d 512 (1982).

Amendment from inquiring into issues pertaining to a church's practices, customs, laws, or beliefs and in respect of any property issues decided by the church itself, the courts must "accept such decisions as final. . . ." *Id.* at 727.[4]

In *Gonzalez* v. *Archbishop*, 280 U.S. 1 (1929), this Court, following the guidelines established in *Watson*, held that "in the absence of fraud, collusion, or arbitrariness," on the part of the church itself, the decisions of a church as to matters pertaining to the church's practices or beliefs must be "accepted in litigation." *Id.* at 16. Similarly, in a case dealing with a church's internal organizational structure, *Kedroff* v. *St. Nicholas*, 344 U.S. 94 (1952), this Court recognized that churches have the constitutional right "to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." *Id.* at 116.

Serbian Eastern Orthodox Diocese v. *Milivojevich*, 426 U.S. 696 (1976) followed the principles of *Watson*, *Gonzalez*, and *Kedroff* and clarified that the "arbitrariness" exception referred to in *Gonzalez* did not permit the Illinois Supreme Court to inquire whether the Serbian Orthodox Church had properly conducted defrockment proceedings against one of its bishops. Although the Illinois Supreme Court's decision was based on a finding that the church's defrockment decision was "arbitrary," the lower court's decision was nevertheless reversed as

---

[4] In a recent report examining the substance of the First Amendment, the Senate Committee on the Judiciary observed that "the original intent of the 'establishment clause' [requires] that Congress be neutral as between competing religious views." S. Rpt. 98-347, 35-36 Senate Committee on the Judiciary, 98th Cong., 2d session (1984). This principle of neutrality embodies the basic understanding that governmental institutions should not attempt to dictate, endorse or even comment upon religious practices or beliefs. To the extent the court in this case invited the jury to substitute its judgment for that of the Unification Church regarding the broad ecclesiastical authority of Reverend Moon to accept and dispose of funds donated to the church, it offended this First Amendment principle of neutrality.

unconstitutional because the court in reaching its decision engaged in the review and determination of internal church practices. *Id.* at 718.

In the present case, the government did not suggest or allege fraud, collusion or arbitrariness by the Unification Church with respect to the Unification Church's position that the property belonged to the church and had been used solely for church purposes. Despite the lack of such an allegation, the government and the trial court nevertheless entirely disregarded the constitutionally protected position of the Unification Church on this important aspect of the case.

Serbian Orthodox Diocese and *Jones* v. *Wolf*, 443 U.S. 595 (1979) typify and embody the standard of law to be applied in any property dispute involving religious institutions. Consistent with the First Amendment and *Watson*, these cases stand for the proposition that courts are constitutionally precluded from making any inquiry into religious practices and doctrines and must defer, where possible, to the resolution of the property dispute by the church itself. In those cases where the ownership question is susceptible to resolution without reference to church practices or doctrines, the courts are granted the limited latitude of applying neutral principles of law to decide the issue. But, even when thus authorized, the courts must scrupulously avoid even the slightest invasion of any religious matters. *Id.* at 602-604.

In this case, the facts differ from *Jones* v. *Wolf* and other intra-church property dispute cases because here the church itself is not divided in its position on the ownership of the property. At trial, the church's position that it was the sole owner of the property was clearly made. Instead, in this case, the dispute is between the United States Government and an undivided church with the government alone questioning the church's ownership of the property. This difference makes the principles of *Serbian Orthodox Diocese* and *Jones* even more important and applicable in the present case. Certainly, the government must be held to at least the same guidelines as a rival faction within the church itself.

The constitutional protections of *Watson*, *Gonzalez*, *Serbian Orthodox Diocese* and *Jones* are equally applicable in cases where the inquiry is whether a certain church activity, such as the use of funds, is religious or secular in nature. Citing and relying on *Watson*, the New York Court of Appeals in *Holy Spirit Association for the Unification of World Christianity* v. *Tax Commission*, 55 N.Y. 2d 512 (1982) (hereinafter referred to as "Holy Spirit Association") held that when confronted with such an inquiry, a trial court or other civil authority is constitutionally obligated to accept the church's position on the distinction between "religious" and "secular" unless and until it finds the church's position was not made in good faith. "Civil authorities may engage in but two inquiries: Does the religious organization assert that the challenged purposes and activities are religious, and is that assertion bona fide?" *Id.* at 521 (*citing Watson* v. *Jones*).

A comprehensive analysis of the above authorities inescapably establishes the governing standard of law which must be applied in any case, including the case below, where the property ownership claims of a religious institution are at issue. Courts must accept the church's position unless it can be shown that the position was "fraudulent, illegal or arbitrary" or not asserted in good faith. At a bare minimum, the standard requires the jury to be given instructions that it not in any way substitute its lay views for those of the church itself on any issue involving the church's practices, beliefs or procedures.

In the present case, there was no assertion of fraud against the church but the trial court failed to apply even the minimum proper standard of law and instead allowed the jury to decide the critical question of ownership in any manner it desired. Furthermore, the court took an even greater step away from the First Amendment by instructing the jury that religion was to play no part whatsoever in their deliberations.[5] This was

---

[5] The jury was instructed that "considerations of . . . religion must have no part in your deliberations." T6538.

especially prejudicial in light of the Unification Church's clear claim that it owned the property. The only evidence at trial as to the source of the funds and the purpose for which they were given to Reverend Moon was that the funds were given to Reverend Moon by members of the Unification Church as donations to the church.[6] The government failed to show that any part of the money came from a non-church member or was advanced to Reverend Moon for any other purpose than to further the work of the church. Given this state of the evidence, the trial court, per *Watson*, *Jones* and *Holy Spirit Association*, should have instructed the jury to 1) ascertain, as a factual matter, the position of the Unification Church on ownership of the property, being restricted to the use of secular principles in doing so, 2) give full deference to the church's position unless they first find as a matter of fact (again using purely secular principles) that the church's position was not advanced in good faith, and 3) in all respects limit their deliberations to avoid a decision based in any degree on the jury's lay views as to the propriety, desirability or validity of the stated practices and procedures of the Unification Church.

Furthermore, on the tangential question whether the property was used for Moon's personal benefit or that of the church, the court should have instructed the jury to give full deference to the church's statement as to what constituted "religious" purposes.

In contrast to the constitutionally mandated standards discussed above, the trial court permitted the jury to use whatever standards it wished to decide the critical question of ownership. Listed as only fifth in a long line of factors which the jury was told it may, but was not limited or required to,

---

[6] In its majority opinion, the Court of Appeals acknowledged that "the *only* evidence even remotely touching on this issue [whether donors had intended to create a trust] was the testimony of church members . . . who simply stated that they gave the money to Moon, intending it as a donation to their church." 718 F.2d at 1224.

consider was "the intent of the parties who caused the stock and funds to be transferred to Reverend Moon's name." 718 F.2d at 1244 n.3. At no time was the jury told to give any deference whatsoever to the constitutionally protected good faith position of the church. In his dissenting opinion in the Second Circuit, Judge Oakes recognized this error by the trial court:

> Rather than simply including intent as one of the things for the jury to consider, the court in my view should have advised the jury to afford the greatest weight to this factor. The church source of the funds and Moon's role as church leader were likely to cast light on the issue of the donor's intent and accordingly the charge should have specifically directed the jury's attention to them.

Id. at 1245.

The Second Circuit upheld the trial court's refusal to properly instruct the jury and with the mere stroke of its pen brushed aside *Jones* and *Holy Spirit Association* by referring to the latter as "inapposite" and the former as having "no application" to a "federal criminal tax prosecution." *Id.* at 1227-1228. There was no justification for the Court of Appeals to create this new exception to constitutional protection. The majority opinion's fleeting references to broad pronouncements of this Court to the effect that religious freedoms cannot be used to protect criminals from prosecution [See 718 F.2d at 1227 *citing Davis* v. *Beason*, 133 U.S. 333 (1890)] are not applicable to the present case and only serve to confuse the issue. Appellants and this *Amicus* agree fully with *Davis* v. *Beason* and do not contend in any respect that a religious leader or any other person is above the law. It is fully conceded that the religion clauses cannot be abused to permit those who violate the criminal law to go unpunished. The First Amendment must yield, where necessary, to permit the laws of society to be invoked and enforced. But the standard urged in this appeal—proper instructions to the jury pursuant to the guidelines of *Watson*, *Jones* and *Holy Spirit Association*—would in no manner interfere with the criminal tax laws. Nor would it increase the government's burden of proof or place Reverend Moon

above the law. The proper standard would, however, assure protection of fundamental religious freedoms and to that end should have been given.

Furthermore, the Court of Appeals' holding that criminal tax cases are, in effect, immune from judicial rules otherwise governing church property disputes is in violation of the principle established by this Court in *United States* v. *Ballard*, 322 U.S. 488 (1961) that juries in criminal cases, as well as in civil cases, are required by the First Amendment to be instructed to avoid any decision based on the jury's lay opinions as to the validity, truthfulness or propriety of a church's practices and beliefs.

As in *Holy Spirit Association*, discussed above, *Ballard* recognized that given a sufficient factual basis, a jury may inquire into the good faith of a religion's beliefs, but may not, in a criminal trial, inquire into the truthfulness or propriety of such beliefs. Accordingly, the *Ballard* Court affirmed as constitutionally necessary the trial court's instructions to the jury to not engage in any discussion or analysis of the defendants' religious beliefs and in no respect to substitute their lay views for those of the church.

As in this case, the criminal defendants in *Ballard* belonged to a religion generally in disfavor with the public.[7] The Ballard court correctly observed that the defendants' constitutional religious rights were no less important for the unpopularity of their beliefs:

> The religious views espoused by respondents might seem incredible, if not preposterous, to most people. But if those doctrines are subject to trial before a jury charged with finding their truth or falsity, then the same can be done with the religious beliefs of any sect. When triers of fact undertake that task, they enter a forbidden domain.

Id. at 87.

---

[7] As noted in the Petition for Certiorari, "almost half of the 1,000 people polled prior to voir dire said that [i]f [they] had the chance, [they'd] throw Reverend Sun Myung Moon in jail." Appellants' Petition at page 22, n.36, *citing* A822-23.

The safeguards required in *Ballard* are equally necessary in the present case. The jury should have been charged to avoid any intervention into the beliefs and practices of the Unification Church while at the same time giving deference to the church's views on certain factual issues.

By not properly instructing the jury in accordance with *Ballard*, the court permitted the taking of church property against the wishes of the church itself without any showing or factual finding by the jury of bad faith, fraud or illegal collusion on the part of the church. The government may contend on this appeal that the trial court's failure to properly instruct the jury was harmless error because the same verdict would have been reached with proper instructions. Unfortunately, however, we do not know upon what factors the jury's verdict was based, but it very possibly rested on impermissible jury interference with the practices and procedures of an established church. The jury may well have concluded, for example, that the practices of the Unification Church regarding the donation and use of the property were not, according to the jurors' individual lay views, acceptable "religious" practices or activities. Because such conduct enters the constitutionally protected area of religious freedom, even the possibility of infringement, which most certainly exists in the present case, cannot be condoned.

II. The Opinion Below, If Followed, Establishes A Grave Danger Of Unconstitutional Governmental Intrusion Into The Affairs Of All Churches.

The decision below, if permitted to stand, seriously threatens the internal workings of every church in the country. The governmental intrusion into the activities of the Unification Church allowed below is repugnant to the very core of our democratic way of life.[8] By investigating the tax affairs of

---

[8] Noted Historian Sanford H. Cobb correctly observed: "[A]mong all the benefits to mankind to which this soil has given rise, this pure religious liberty may be justly rated as the great gift of America to

Reverend Moon and the Unification Church, the government chose perhaps the easiest available method, through the guise of legitimate governmental activity, to interject itself into the affairs of an unpopular church and leader. Whatever the merit of such an investigation, the government and courts below were nonetheless obligated at trial to fully respect and safeguard Reverend Moon's and the Unification Church's constitutional rights. As discussed above, they failed to protect such rights and instead allowed the jury to wander at will through the protected domain of the church, giving no legal heed whatsoever to the good faith position of the church itself.

The religious freedoms guaranteed by the Constitution were never intended to bend or depend on the relative popularity of the church involved. Indeed, the trials of unpopular persons, such as the trial below, demand more, not less, care to assure the unquestioned protection of religious rights. If religious freedoms can be so callously disregarded in the case of an unpopular person, as they were in the case below, the same can happen in any other trial involving the claims of churches. No church is safe if lay juries are permitted, as was the jury in this case, to substitute their views for those of a church regarding the church's practices, beliefs and procedures. The next case may involve another generally unpopular leader, such as Reverend Moon, or it may be someone from one of the more "established" religions. But whoever the leader and whatever the church, another case following or expanding on the so-called exception created by the Court of Appeals below is sure to follow. Once the door is open, the possibilities of governmental intrusion into the heretofore protected area of church related fundraising, accounting or other activities are many and dangerous. The government, over time, may be found dictating the manner in which churches handle internal funding, how

---

civilization and the world having among principles of government policy no equal . . . ." Cobb, S., *The Rise of Religious Liberty in America* 2 (1970).

they must invest their funds and how their bookkeeping records must be established. These serious ramifications cannot be permitted to occur. The decision below is accordingly viewed with concern and alarm by a wide-ranging group of churches, political organizations and other institutions throughout America who join this *Amicus* in urging the United States Supreme Court to grant petitioner's petition and review and reverse the decision below.[9]

CONCLUSION

1. Despite the widespread public hatred and persecution Reverend Moon and his church experienced in American society, Reverend Moon was nonetheless absolutely and constitutionally entitled to a trial in which his and his church's religious freedoms were fully respected and protected.

2. In the case below, the courts permitted the government and the jury to run roughshod over Reverend Moon's and the Unification church's constitutional rights. The jury was allowed to decide the critical issue of ownership without regard to the unanimous position of the church and to substitute its lay views for the good faith views of the church.

3. The unfettered fact finding allowed by the trial court below and affirmed by the Court of Appeals may not be permitted with respect to any church, popular or unpopular. The Court of Appeals' refusal to apply controlling constitutional guidelines and its bold declaration that "the jury was not bound to accept the Unification Church's definition of what constitutes a religious use or purpose" in a federal criminal tax case [718 F.2d at 1227] creates an unconstitutional exception completely unwarranted by the First Amendment.

---

[9] As of the date of the filing of this *amicus* brief, other *amici* filing briefs with this Court include The National Council of the Churches of Christ in the U.S.A., The African Methodist Episcopal Church, the National Association of Evangelicals, the Christian Legal Society, the Southern Unitarian Leadership Conference and the Center for Judicial Studies. Others are expected to follow.

4. Had the jury been properly charged, the verdict as to the defendants' guilt or innocence may or may not have been different. Regardless of the effect on the ultimate verdict, however, the important judicial principles enunciated by this Court in *Watson*, *Jones*, and *Ballard* to assure the continued protection of First Amendment freedoms in criminal and civil proceedings alike should have been employed.

5. The decision below, if allowed to stand, poses a serious threat of further governmental interference into the affairs of all churches.

Given the state of the case below and the considerable public outcry over the treatment Reverend Moon received in the courts below, this Court should review the decision of the Court of Appeals and reverse with proper guidance to assure the protection of religious freedom in all future cases.

The position taken by this *Amicus* is adopted solely for the purpose of urging that the religious rights of all persons and churches remain unequivocally protected. It is taken without any comment on the Unification Church as a religious organization, other than to recognize it as such, a factor that alone affords it the fullest protection of the First Amendment. The courts of this country owe it no less.

Respectfully Submitted,

UNITED STATES SENATOR ORRIN G. HATCH
Chairman,
Subcommittee on the Constitution, United States Senate Committee on the Judiciary